

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF GEORGIA
STATESBORO DIVISION

UNITED STATES OF AMERICA

v.

JULIUS PINKSTON

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CR 606-026-01

O R D E R

In the captioned criminal matter, Defendant Julius Pinkston has filed a motion to correct his Judgment and Commitment Order. Citing Federal Rule of Criminal Procedure 36, Pinkston argues that he was improperly sentenced because of errors in his Presentence Investigation Report.

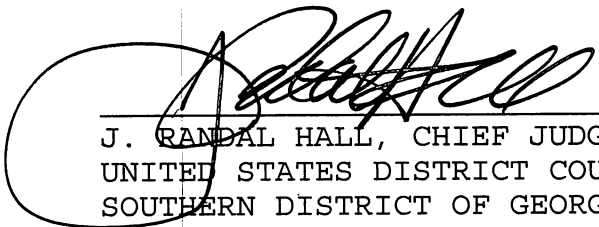
Rule 36 allows a court to correct "a clerical error" in a judgment. A clerical error, however, is a "minor uncontroversial error[]." United States v. Portillo, 363 F.3d 1161, 1164 (11th Cir. 2004). The rule may not be used "to make a substantive alteration to a criminal sentence." United States v. Pease, 331 F.3d 809, 816 (11th Cir. 2003). Here, Pinkston is asking the Court to make a substantive change to his sentence. He essentially challenges the legality of his sentence, which must be done through a motion to vacate, set aside, or correct a sentence under 28 U.S.C. § 2255. Otherwise, a district court cannot modify a sentence once it has been imposed except under three very limited

circumstances, none of which apply here. See 18 U.S.C. § 3582(c).

The problem for Pinkston is that he has already filed a § 2255 motion, which has been denied by this Court. Thus, in order for him to bring another § 2255 motion, Pinkston must move the Eleventh Circuit Court of Appeals for an order authorizing this Court to consider a second or successive § 2255 motion. See 28 U.S.C. §§ 2255, 2244(b)(3). Until Pinkston acquires the necessary authorization to bring a successive § 2255 motion from the Court of Appeals, this Court does not have jurisdiction to consider the merits of his claim.

Upon the foregoing, Pinkston's motion to correct judgment (doc. 1677) is **DENIED**.

ORDER ENTERED at Augusta, Georgia, this 26th day of June, 2017.



J. RANDAL HALL, CHIEF JUDGE
UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF GEORGIA